



# 2024 REMITS VOTE CONSTITUTIONAL REMITS

## CONSTITUTION REMIT 1

### RECEIVED FROM: NZNO Board

#### Current Clause:

#### 31. Alterations to the Constitution and Policy Remits

31.1 Subject to clauses 31.2 and 31.3, this Constitution may be amended, revoked or added to (alterations) provided that any such alteration shall be passed using the same process set down in clause 29.



#### Amend Clause to read:

#### 31. Alterations to the Constitution and Policy Remits

31.1 Subject to clauses 31.2 and 31.3, this Constitution may be amended, revoked or added to (alterations) provided that any such alteration shall be passed using the same process set down in clause 29, in the case of constitutional remits submitted in accordance with Clause 25.2, or using the process Schedule Five in the case of alterations submitted to a ballot of all financial members in accordance with Clause 25.4.

#### Comment from the Remit Committee Regarding Remit 1

The Remit Committee would like to draw your attention to the following point for consideration:

- The cost incurred to vote for the revised constitution will happen in 2025 regardless of this remit passing. If the revised constitution goes to the 2025 AGM or is passed earlier, as suggested by this remit, the cost will be incurred at some stage next year.

#### Rationale

In 2020, a remit was passed through the “one member, one vote” process, calling for a full independent review of the NZNO Constitution. An independent review report and a peer review of that report were presented to the Tōpūtanga Tapuhi Kaitiaki o Aotearoa NZNO AGM in 2022.

Following the 2022 AGM, a Constitution Review Panel was established by the Board and Te Poari. The Panel was directed to seek member feedback and to review the Constitution in accordance with the following criteria:

1. Meeting Tōpūtanga Tapuhi Kaitiaki o Aotearoa NZNO's obligations to te Tiriti o Waitangi
2. Embedding democratic processes for members into the operations of NZNO that can work in a bicultural environment
3. Giving effect to Maranga Mai! Strategy.

After considering member feedback received in 2023, the Constitution Review Panel is now directing the drafting of the revised Constitution. This will be presented for discussion and feedback, along with a report from external cultural reviewers, at the 2024 NZNO Conference. A progress update will also be discussed at Hui-ā-Tau.

A final draft, incorporating Hui ā-Tau and AGM feedback, will then be presented for endorsement at a Special Hui ā-Tau, in order to meet the requirements of Clause 31.3.

Subject to receiving this endorsement it is envisaged that in 2025, the Board will request that the Chief Executive gives notice of a Special General Meeting in accordance with Clause 26.1. The business to be transacted at this SGM will be a decision to put the revised Constitution before financial members for voting, as allowed under Clauses 25.4 and 26.5. This SGM will be held by videoconference.

The current timeline for the ballot of all financial members states that voting will take place in the first quarter of 2025 with the result being declared “as soon as practicable after the ballot closes” (Schedule Five, Clause 2.6).

Existing Constitution Clauses 25.4 and 26.5 allow this process. However, as the independent review report presented at the 2022 AGM stated, “Due to the ad hoc nature of past changes, the Constitution has become internally inconsistent in a number of areas, with repetition of subject matter, and inconsistent terminology, that results in confusion and uncertainty as to interpretation and process.” One of these inconsistencies is the apparent contradiction between Clause 31.1 and Clauses 25.4 and 26.5.

This remit is intended to resolve confusion and uncertainty as to interpretation and process by explicitly stating that the Constitution may be amended using the process in Schedule Five, rather than the process in Clause 29 which would not conclude until AGM 2025.

#### Potential Consequences (including cost)

There are no costs directly attributable to this proposed amendment. However the remit is intended to enable a ballot of all financial members in the first quarter of 2025. Based on the costings for the last ballot of all financial members, which took place in the 2022 Board election, this ballot is likely to cost around \$15,000 - \$20,000.

If the Constitution is amended as envisaged, a substantial work programme will be required to implement the new member structures and processes. The consequences of not passing the remit will delay the start of implementation from the first quarter of 2025 until the last quarter of 2025.

# CONSTITUTION REMIT 2

RECEIVED FROM: NZNO Board

## Current Clause:

### 20. Chief Executive Officer

20.3 The Chief Executive Officer may appoint, engage and remove such employees, staff, agents, consultants and advisers as the Chief Executive Officer deems necessary or desirable for the purposes of NZNO. All such personnel as aforesaid shall at all times carry out their duties under the supervision and control of the Chief Executive Officer.



## Amend Clause to read:

### 20. Chief Executive Officer

20.3 The Chief Executive Officer may appoint, engage and remove such employees, staff, agents, consultants and advisers as the Chief Executive Officer deems necessary or desirable for the purposes of NZNO. All such personnel as aforesaid, except the President and Kaiwhakahaere, shall at all times carry out their duties under the supervision and control of the Chief Executive Officer.

## Rationale

The President and Kaiwhakahaere are both elected officers of NZNO (Constitution Clauses 16 and 17 and Schedule Three). Both roles are also appointed roles to NZNO staff in that they are currently employed under the provisions of individual employment agreements (IEA) and are to "act in accordance with position descriptions laid down by the Board of Directors".

The parties to their IEAs are the Board and themselves (individually). The IEAs are fixed term individual employment agreements, the term being the same as their elected term in those roles. There are a number of difficulties with this. The immediate difficulty that this rule amendment seeks to rectify is that the Board is not a legal entity with separate status from NZNO itself. This means the effective employer for the President and Kaiwhakahaere is NZNO itself rather than the Board.

Existing rule 20.3 makes it clear that the Chief Executive Officer is delegated extensive employment powers, consistent with such a position. The existing rule requires that any employees of NZNO are under the supervision and control of the Chief Executive Officer.

This creates the difficult position whereby the two senior elected roles fall under the supervision and control of the Chief Executive Officer. This is inappropriate. As the two senior officers these roles should fall under the jurisdiction of the Board through adherence to their position descriptions and to the members by way of election.

This situation arises despite the current IEAs specifying that the fixed term individual employment agreement is between the Board and the individual officer. Despite what the IEAs say, Clause 20.3 is quite clear that any employee of NZNO shall fall under the jurisdiction of the Chief Executive Officer and an IEA cannot override this rule.

This needs to be addressed as it is a legal fiction to persist with the view that these roles are legally outside of the Chief Executive Officer's jurisdiction. Pending a more comprehensive resolution of the issues in the revised Constitution in 2025, the addition of the amending words addresses the immediate difficulty by removing these officers from the Chief Executive Officer's jurisdiction.

## Potential Consequences (including cost)

There are no costs attributable to this proposed amendment. The current President and Kaiwhakahaere have reserved their legal position, should either or both be re-elected in 2024, however no consequences are anticipated by the Board.